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 FOOTBALL COMPANY LLC, FORTY NINERS
 SC STADIUM COMPANY LLC, FORTY
 9 NINERS STADIUM MANAGEMENT
 COMPANY LLC, CITY OF SANTA CLARA
 10 and SANTA CLARA STADIUM AUTHORITY

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 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 ABDUL NEVAREZ and PRISCILLA
 NEVAREZ,
 16 Plaintiffs,
 17 v.
 18 FORTY NINERS FOOTBALL
 COMPANY, LLC, a Delaware limited
 liability company; FORTY NINERS SC
 STADIUM COMPANY, LLC, a Delaware
 limited liability company; NATIONAL
 FOOTBALL LEAGUE; CITY OF
 SANTA CLARA; SANTA CLARA
 STADIUM AUTHORITY;
 TICKETMASTER ENTERTAINMENT,
 INC.; FORTY NINERS STADIUM
 MANAGEMENT COMPANY LLC; and
 DOES 1-10, Inclusive,
 25 Defendants.

Case No. 5:16-cv-07013-LHK

**[PROPOSED] ORDER RE: DISCLOSURE OF
 CUSTOMER CONTACT INFORMATION**

Hon. Susan van Keulen

Ctrm: 6

Trial: April 22, 2019

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ORDER

At issue is a discovery dispute between the parties regarding the form of notice to be provided to defendants' customers regarding the present lawsuit. This a putative class action brought on behalf of persons with mobility disabilities and their companions regarding Levi's Stadium ("Stadium") and its related parking facilities alleging violations of the Americans with Disabilities Act of 1990 ("ADA") and the Unruh Civil Rights Act. Plaintiffs contend that an "opt-out" notice provides these individuals with sufficient protections against any intrusion on these persons' right to privacy. Defendants contend that, in light of the fact that the customer list in question is a list of all individuals who have purchased accessible seating since the Stadium opened in 2014, disclosing this list of individuals effectively discloses their medical condition/status as individuals with disabilities, which courts have long held implicates serious privacy concerns. Further, because the list is not limited to individuals with mobility disabilities, defendants contend that providing notice to these individuals will entail questioning them about their respective disabilities.

15 While the disclosure contemplated is, on the surface, limited to contact information, the
16 effect of this disclosure, under these circumstances, implicates more serious privacy interests than
17 the disclosure of the contact information of individuals who had already complained about faulty
18 DVD players (as in *Pioneer Electronics*), or who were defendant's employees (as in *Belaire-
West*). In addition, this is pre-class certification discovery, and plaintiffs have not sufficiently
19 demonstrated how obtaining this discovery is necessary to prepare for their class certification
20 motion.

22 Accordingly, the Court finds that the most appropriate way to balance the competing
23 interests is to require that these individuals provide their affirmative consent before their contact
24 information will be released to plaintiffs' counsel. Because plaintiffs claim this discovery is
25 necessary to prepare for class certification, and because it would be unjust to force defendants to
26 contribute toward the disclosure of defendants' customers' contact information and the cost of
27 sending notice to these individuals where the primary purpose of the discovery is to increase
28 attorney's fees, the Court orders plaintiffs to bear the cost of sending notices to these individuals.

1 *See generally Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 358 (1978); *Boeynaems v. LA*
2 *Fitness Int'l, LLC*, 285 F.R.D. 331, 334-41 (E.D. Pa. 2012). The Court further orders the parties
3 to meet and confer on the substance of the notice, in accordance with the rulings set forth in this
4 order. Notice is to be sent by a neutral administrator of the parties' choice.

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6 Dated:

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The Hon. Susan van Keulen

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